

REMARKS

Claims 1 through 31 are pending in this application. In response to the Office Action, dated December 31, 2003, claims 1, 2, 12, 14, 15 and 25 have been amended, and verified translations of the foreign applications upon which the claim of foreign priority is based have been submitted. Care has been taken to avoid the introduction of new matter. Favorable reconsideration of the application in light of the following comments is respectfully solicited.

Objection has been made to claims 12 and 25 for failing to further limit the subject matter of their respective parent claims 2 and 14. In response, claims 12 and 25 have been amended to further require that the stated parameters are set to constant values prior to the controlling operation. Claims 2 and 15 have also been amended to add this requirement. Withdrawal of the objection is respectfully solicited.

Claims 1, 14 and 25 have been rejected under the second paragraph of 35 U.S.C. § 112. In response, claim 1 has been amended to clarify that there are a plurality of pumping light sources and claim 14 has been amended to clarify that the previous term "components" signifies light channels. The dependency of claim 25 has been changed to parent claim 15 for clarification as recognized in the Office Action. It is submitted that the rejection now has been overcome.

Claims 1 through 3, 5, 6, 9, 12, 14 through 16, 18, 19, 22, 25, 28 and 30 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,359,726 (Onaka '726), the rejection set forth at pages 3-6 of the Office Action. Claims 4 and 17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Onaka '726 in view of U.S. patent 6,366,393 (Feulner), as set forth at page 6 of the Office Action. Claims 7, 8, 10, 11, 20, 21, 23 and 24 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Onaka '726 in

view of U.S. patent 5,894,362 (Onaka '362). This rejection is set forth at pages 6-8 of the Office Action. Claims 12 and 25 have been rejected under 35 U.S.C. § 103 (a) as being unpatentable over Onaka '726 in view of Clapp, of record, at page 8 of the Office Action. Claims 13 and 27 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Onaka '726 in view of Inoue, of record, at page 8 of the Office Action. Claim 26 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Onaka '726 at page 9 of the Office Action. Claims 29 and 31 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Onaka '726 in view of Becker, of record, as set forth at pages 9-11 of the Office Action.

Each rejection has relied upon Onaka '726. This patent was filed on November 30, 1999. The present application was filed September 22, 2000 as a continuation of PCT application PCT/JP00/01660, which has a filing date of March 17, 2000. Under 35 U.S.C. § 365(a), a U.S. national application is entitled to the right of priority based on a prior international application that designates at least one country in addition to the United States. Thus, the effective filing date of the present application is March 17, 2000. Under 35 U.S.C. § 365(b), an international application designating the United States is entitled to the right of priority of a prior foreign application. As stated in MPEP 201.13(b), "as far as the actual place of filing is concerned, for the purpose of 35 U.S.C. § 365(a) and (b) and 35 U.S.C. § 119(a)-(d) and (f), an international application designating [the United States] is considered to be a national application regularly filed in that country on the international filing date"

In the present application priority has been claimed under 35 U.S.C. § 119 for Japanese foreign applications 11-196251, filed July 9, 1999, and 11-212190, filed July 27, 1999. These filing dates are less than one year prior to the effective filing date of the present application, March 17, 2000. Certified copies of the foreign priority documents were filed December 21,

2000, the receipt of which were acknowledged in the Office Action of October 18, 2001.

Submitted herewith are verified English language translations of the above-identified Japanese applications. These documents describe subject matter supportive of the claimed invention.

It is submitted that the claim for foreign priority has been perfected, thus rendering Onaka '726, with a filing date of November 30, 1999, disqualified as a prior art reference. Each of the rejections of record, therefore, has been overcome.

It is further submitted that the present invention is distinguishable from Onaka at least in the following respect. For controlling the power of signal light output from the amplifier, Ohanka controls the loss of VATT. However, the present invention controls not the filter loss but the power of pumping light in the amplifier. Onaka and the present invention differ in the controlling method.

Accordingly, allowance of the application is respectfully solicited. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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